

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARYL COOK,

Petitioner, : CIVIL ACTION NO. 18-751
v. :
MARK CAPOZZA, THE DISTRICT :
ATTORNEY OF THE COUNTY OF :
PHILADELPHIA, THE ATTORNEY :
GENERAL OF THE STATE OF :
PENNSYLVANIA, :
Respondents. :

ORDER

AND NOW, this 27th day of February, 2018, after considering the (1) application to proceed *in forma pauperis* and prisoner trust fund account statement, (2) petition for writ of habeas corpus under 28 U.S.C. § 2254, (3) motion for leave to file original and one copy of the petition for writ of habeas corpus and request for the appointment of counsel, (4) the motion for a stay pending disposition of the appeal process in the state courts filed by the *pro se* petitioner, Daryl Cook (Doc. Nos. 1-4); and for the reasons set forth in the separately filed memorandum opinion, it is hereby **ORDERED** as follows:

1. The application to proceed *in forma pauperis* (Doc. No. 1) is **GRANTED** and the petitioner has leave to proceed *in forma pauperis*;

2. The motion for leave to file an original and one copy of the petition for writ of habeas corpus and request for the appointment of counsel (Doc. No. 2) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The motion, to the extent that the petitioner is seeking leave to file an original and one copy of the petition for writ of habeas corpus, is **GRANTED** and the petitioner

is excused from filing two copies of the habeas petition along with the original as otherwise required by Rule 3(a) of the Rules Governing Section 2254 Cases in the United States District Courts and he may file only one copy of the petition; and

b. The motion, to the extent that the petitioner seeks the appointment of counsel, is **DENIED**;

3. The motion for stay pending disposition of appeal process in state court (Doc. No. 3) is **DENIED**;

4. The petition for a writ of habeas corpus (Doc. No. 1) is **DISMISSED WITHOUT PREJUDICE** without a hearing. The petitioner may file a new petition after exhausting his state court remedies;

5. There is no cause to issue a certificate of appealability; and

6. The clerk of court shall mark this matter as **CLOSED**.

BY THE COURT:

/s/ *Edward G. Smith*
EDWARD G. SMITH, J.